



2025:DHC:1641-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 11.03.2025

+ W.P.(C) 3044/2025
COM I RAVI BHASKER S NO 250944 BPetitioner
Through: Mr.Arvind Kumar, Adv.
versus

UNION OF INDIA AND ORSRespondents
Through: Mr.K. D. Sharma, SPC with
Mr.Shriram Tiwary, GP and
Mr.Aditya Goyal, Adv. for UOI
Comdr. Vikrant Singh

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE TEJAS KARIA

NAVIN CHAWLA, J. (ORAL)

CM APPL. 14449/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 3044/2025

2. This petition has been filed by the petitioner, challenging the Order dated 13.11.2024 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as the “learned Tribunal”) in Original Application No.2021/2022 (O.A.) titled **COM (I) Ravi Bhasker v. Union of India & Ors.**, whereby the said O. A. filed by the petitioner herein was dismissed.

3. The petitioner further challenges the ‘Standards for Assessment by USG for Cadets including Women Candidates’ dated 11.11.2009. The petitioner also challenges the Reports dated 29.07.2020 and



2025:DHC:1641-DB



11.09.2020, issued by the Medical Board and the Appeal Medical Board respectively, declaring the petitioner 'unfit' for being commissioned into the Indian Navy *via* CW entry.

4. It is the case of the petitioner that the petitioner joined the Indian Navy on 30.02.2018 and, having undergone and cleared all prerequisite training and tests, was assigned the Trade COM TEL II. While being in service, the petitioner applied for commissioning in the Indian Navy through CW/ACC on 16.10.2019 under the Commission Worthy Scheme 2020 (in short, 'CW'), after having been declared medically 'fit' in the S1A1 Medical Category. He successfully cleared the written examination and the SSB.

5. The Special Medical Board, *vide* its Report dated 29.07.2020, however, declared the petitioner 'unfit' for being Commissioned for the following reasons: -

“(a) *Revised Blood Pressure*
(b) *Calcified Granuloma 4.3 mm (>3 mm)*”

6. The petitioner applied for the Appeal Medical Board, which also declared the petitioner 'unfit' for appointment on the ground that he was found to be suffering from: -

“*Calcified Granuloma (Liver)*”

7. Aggrieved by the same, the petitioner challenged these reports before the learned Tribunal by way of the above-mentioned O.A., which has been dismissed by the learned Tribunal by the Impugned Order.

8. The learned counsel for the petitioner submits that the petitioner is already working with the Indian Navy in the Trade COM TEL II and



2025:DHC:1641-DB



has been found to be in the S1A1 Medical Category. He submits that, therefore, the petitioner has been found to be 'fit' to undertake all duties and it does not hold any reason why the petitioner should be declared 'unfit' for being Commissioned for the presence of a 'Calcified Granuloma (Liver)'.

9. He further submits that for the Indian Air Force and the Indian Navy, the prescribed Medical Standard accepts 'Calcified Granuloma (Liver)' till 10 mm. He submits that, therefore, the prescription of a maximum limit of 3 mm by the Indian Navy is arbitrary and discriminatory.

10. He finally submits that the petitioner is willing to undergo a procedure to meet the medical standards required for the Commissioning under the scheme and should have been granted adequate time for the same by the respondents.

11. He submits that the above issues have not been appreciated by the learned Tribunal, and therefore, the Impugned Order dated 13.11.2024 passed by the learned Tribunal is liable to be set aside.

12. Issue notice.

13. Notice is accepted by Mr.K. D. Sharma, the learned counsel for the respondents.

14. He submits that admittedly, the petitioner did not meet the medical standards as prescribed in the Medical Guidelines dated 11.11.2009. He further submits that the submission of the petitioner that separate medical standards have been prescribed for the Indian Navy *vis a vis* the Indian Army and the Indian Air Force, thereby rendering them arbitrary, has already been rejected by this Court *vide*



2025:DHC:1641-DB



its Order dated 21.09.2015, passed in W.P.(C) 8990/2015 titled **Saurabh Kumar v. Union of India & Anr.**. He submits that the petitioner having participated in the selection process knowing fully well the medical standards that were applicable thereto, cannot now challenge the same.

15. We have considered the submissions made by the learned counsels for the parties.

16. The Medical Guidelines dated 11.11.2009, applicable to the selection process in question, specifically provide that a candidate shall be declared 'unfit' for being commissioned where calcification of more than 3 mm in size is found in the liver.

17. In the present case, the petitioner was detected with a calcification of 4.3 mm and, therefore, applying the medical standards applicable to the selection process, was rightly declared 'unfit' for being commissioned, by both the initial Medical Board as also by the Appeal Medical Board.

18. As far as the challenge of the petitioner to the Medical Guidelines itself is concerned, this Court in **Saurabh Kumar** (supra), has rejected a similar submission, by observing as under: -

“This Court is of the opinion that the Indian Navy's opinion as to the fitness of the particular candidate for the physical or medical conditions requisite for the Navy cannot be judicially reviewed in the manner sought. What can be open for examination is whether the individual actually suffers from the medical condition which constitutes a disability. In other words, the process of examination to determine whether as a matter of fact, the candidate suffers from disability



2025:DHC:1641-DB



alleged is alone open to examination. However, as to what constitutes fitness and the standards prescribed therefore cannot be judicially reviewed. The compulsion of each Force may vary depending on the exigencies of service and the kind of duties which its personnel have to undertake.”

19. The submission of the learned counsel for the petitioner that the petitioner otherwise, while serving in the Indian Navy, has been categorised and placed in the S1A1 Medical Category, can also not help the petitioner, inasmuch as the recruitment process itself prescribes that the candidate has to meet the standards which are prescribed in the Medical Guidelines dated 11.11.2009.

20. In ***Pavnesh Kumar v. Union of India & Ors.***, 2023 SCC OnLine SC 1583, the Supreme Court has held that merely because a candidate who is otherwise serving in the organisation and has been declared ‘fit’ for such service, would not mean that he also meets the medical standards that are prescribed for a fresh recruitment process as a departmental candidate. We may quote from the Judgement as under:

“ 11. The submission of the Counsel for the appellant that once the appellant was declared medically fit, the respondent BSF could not have reviewed the matter to take a contrary decision declaring him medically unfit.

12. The above submission of the counsel is ex-facie bereft of merit as the appellant was never declared medically fit for the post of Sub-Inspector (GD) pursuant to his candidature for the said post through LDCE. The appellant had undergone routine annual medical check-up as a constable and was declared in medical category SHAPE-I, which was the eligibility



2025:DHC:1641-DB



condition for applying to the post of Sub-Inspector (GD) through LDCE. The appellant was never declared medically fit in the process of selection for the post of Sub-Inspector (GD). The appellant may have qualified stage-I to stage-IV of the process of examination but never qualified stage-V which consisted of the detailed medical examination. The said detailed medical examination as per the call letter referred to above was done only on 23.12.2019 and not on any earlier date. In the said detailed medical examination the appellant was declared unfit which decision was upheld by the review medical examination by the board of three members despite appellant having undergone a minor surgery for the cure of medical deficiencies pointed out earlier. The medical examination of the appellant conducted on 16.12.1999 was a routine annual examination which declared him in medical category SHAPE-I. It was not a part of examination process for selection to the post of Sub-Inspector (GD) through LDCE. The appellant never successfully qualified all the five stages of examination as advertised for the selection to the post of Sub-Inspector (GD) through LDCE.

13. *It was next contended that the appointment through LDCE is like fast-track promotion and is not a fresh appointment. Therefore, recruitment rules and guidelines applicable to the normal mode of promotion would have been applied and not any different medical standards.*

14. *No doubt appointment to a higher post of an incumbent working on lower post is in the form of an accelerated promotion but it cannot be equated with normal mode of promotion. This is evident from the advertisement itself*



2025:DHC:1641-DB



which in unequivocal terms states that applications are invited for selection to the post of Sub-Inspector (GD) in BSF through LDCE. The very fact that the applications were invited for selection to the post of Sub-Inspector (GD) connotes that it was not a normal promotion rather selection to the higher post from amongst the eligible candidates working on the lower post. Thus, the submission that the normal rules of promotion or medical examination ought to have been applied, is not acceptable.

15. *This apart, selection was to be conducted in terms of the advertisement. The scheme of the selection contained in the advertisement categorically provided clearing of the examination in all the five stages which included detailed medical examination. This was independent and in addition of the eligibility condition that a candidate must possess the medical category SHAPE-I while working on the lower post.*

16. *Additionally, a distinction has to be drawn between a normal promotion and promotion by selection through LDCE. Promotion by selection through LDCE vis-à-vis competitive examination is a facility or a chance given for out of their promotion without waiting for the normal course of promotion. It in effect is selection through competitive examination within the limited category of candidates and cannot be equated with normal promotion. This being the position, the argument that regular promotion criteria had to be applied with regard to medical fitness even in the matter of selection through LDCE is not acceptable.*

17. *In view of the above facts and circumstances, we find no substance in the*



2025:DHC:1641-DB



appeal. There is no review of the medical of the appellant and the declaration that he is “medically unfit”, is not contrary to any earlier reports as he was never declared to be medically fit in the process of examination for selection to Sub-Inspector (GD) through LDCE.”

21. Coming to the submission of the learned counsel for the petitioner that the petitioner could always have rectified his condition by undergoing a procedure, also does not impress us. It has not been demonstrated that the petitioner met the required medical standards, even at the stage of the Appeal Medical Board. The selection process cannot be an endless exercise awaiting for the candidates to meet the prescribed medical standards over an indefinite period of time. Unless the Medical Guidelines themselves give an exemption for cases of temporary unfitness or conditions which can be rectified by medical procedure, this Court cannot grant additional time to the candidates to meet the prescribed standards.

22. For the reasons stated hereinabove, we find no infirmity in the Order passed by the learned Tribunal so as to warrant any interference by this Court in the exercise of its powers under Article 226 of the Constitution of India.

23. The petition is, accordingly, dismissed.

NAVIN CHAWLA, J

TEJAS KARIA, J

MARCH 11, 2025/sg/DG

[Click here to check corrigendum, if any](#)